



**INTERNAL REVIEW DECISION**  
**(Internal Review Decision Notice in response to an Application for Internal Review)**

**PART 1: Details of Internal Review**

<b>Internal Review Number:</b>	Internal Review 0036-19
<b>Applicant's Name:</b>	Dale Smith

**PART 2: Decision History**

Original Decision:	Breach of Rule 131(a) of the Australian Rules of Racing
Original Decision Makers:	N. Boyle, P. Zimmermann, J. Hackett, G. Goold, C. Fedrick
Date of Original Decision:	28 April 2019
Internal Review Decision:	Original decision of charge and penalty confirmed – thirteen (13) day suspension
Internal Adjudicator:	Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	31 May 2019

**PART 3: Summary of Internal Review Application**

The Applicant, Mr Dale Smith, rider of HOT SOCK, in Race 9 at Sunshine Coast Turf Club on 28 April 2019, was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 131(a).

Australian Rule of Racing 131(a) states:

*"A rider must not, in the opinion of the Stewards: (a) engage in careless, reckless, improper, incompetent or foul riding"*

At the Stewards' inquiry conducted on 28 April 2019, the Applicant was found guilty of a charge of careless riding pursuant to Australian Rule of Racing 131(a) in that passing the 50m he allowed HOT SOCK to shift outwards under riding, tightening the running of SECRET AGENT MAN, which had to be checked and lose its rightful position.

In determining penalty, stewards took into account the Applicants degree of carelessness as mid-range, not guilty plea, and recent poor disciplinary history pursuant the aforementioned rule. Stewards subsequently suspended the Applicant's license for thirteen (13) days to commence at midnight, 7 May and to expire midnight, 20 May 2019.

The Applicant sought a review of the charge and penalty and submitted the following in support of his Application:

*"I believe the Stewards have made an incorrect decision in determining the outcome of this inquiry. The penalty is also very harsh when clearly the reason my horse made contact with the other was due to it re-acting to something getting its attention on the inside, must probably the big screen.*

*My horse was distracted by something to our inside as this why my horse made a sudden move towards which after racing close already resulted in contact which further caused my horse to move outwards.*



*Video footage will show my horse clearly being distracted by something on the inside, which was no fault of mine."*

The outcome sought by the Applicant is that *"The charge against me be revoked as per the reasons above, and also the severity of the penalty if necessary."*

#### **PART 4: Reasons for Internal Review Decision**

Stewards opened an inquiry into the alleged aforementioned incident that occurred near the 50 metre mark of the race.

Mr Neil Boyle, Stipendiary Steward of the Queensland Racing Integrity Commission and Chairman of the inquiry provided an observation of the incident stating *"An incident took my eye when I was in the Chairman's tower, and I had a head-on view to an incident that took place probably a hundred metres from the finish where jockey Cassidy, who was racing in between jockey Dale Smith to his inside and also jockey Du Plessis, the rider of Windermere, appeared to be tightened for room, and my observation was that I felt over the final 100 metres, Hot Sock was improving from behind those 2 runners at that stage of the race, and under hard riding began to shift ground and shifted out, causing jockey Larry Cassidy, the rider of Secret Agent Man, to check his mount and lose his rightful position."*<sup>1</sup>

Mr Larry Cassidy rider of SECRET AGENT MAN which was racing to the outside of HOT SOCK In evidence stated *"Pretty much how you said. I was racing to the inside of Mark Du Plessis. We were sort of going head-to-head, and as we approached the hundred, Dale Smith's mount come up, was sort of shifting quite close to me. The three of us were sort of going together at one point, and then as the other horse got the better of me, Smith's mount – he just got in front of me and I just had to check."* The Chairman of inquiry questioned *"How far forward of your horse was jockey Smith's horse when you had to grab hold do you believe?"* to which Mr Cassidy replied *"Three quarters of a length at best"*.<sup>2</sup>

The Applicant rider of HOT SOCK which was racing to the inside of SECRET AGENT MAN in evidence stated *"-- I was under hard riding, as you said, sir. It showed really no sign of – any indication that it was going to duck – duck out sharply as it did. I felt that he half spotted something from the inside, and as I got the better of Larry, and probably like – probably felt that, yeah, it's probably three-quarters a length once I got past him and it ducked out quite suddenly, had to grab up and straighten up, but the damage had obviously been done."* The Chairman of inquiry questioned *"So you are saying it ducked out sharply; it wasn't a gradual shift?"* to which the Applicant replied *"I don't think you did - well, out there at the time it didn't feel that it was getting out under riding, that's for sure"*.<sup>3</sup>

Subsequent to viewing the race footage, the reviewer finds the Applicant rider of HOT SOCK when riding vigorously with the whip permitted his mount to shift out when not clear of SECRET AGENT MAN, resulting in that horse having to be severely checked and as a consequence lost its rightful running. The reviewing finds the race footage compelling and demonstrates leading up to incident HOT SOCK was gradually shifting out under riding before the Applicant commenced to use the whip in consecutive strides and as a consequence permitted HOT SOCK to shift out when not clear of SECRET AGENT MAN. The reviewer rejects the Applicants submissions stating *"-- the reason my horse made contact with the other horse was due to it reacting to something getting its attention on the inside most probably the big screen"* and finds the Applicant only had 'eyes' for the winning-post and continued to ride vigorously with the whip despite shifting ground, and as a consequence was the sole cause of the aforementioned interference. Accordingly, the reviewer is completely satisfied the charge the subject of review is proven.

<sup>1</sup> Transcript of Stewards inquiry dated 28 April 2019 page 2.

<sup>2</sup> Transcript of Stewards inquiry dated 28 April 2019 page 2.

<sup>3</sup> Transcript of Stewards inquiry dated 28 April 2019 page 3.



The stewards deemed the incident to be in the mid-range. The standard penalty for a mid-range offence is a thirteen (13) day suspension. The Applicant's disciplinary history demonstrates seven (7) suspensions in previous twelve (12) months, the latest being two (2) in March 2019.

In weighing up the evidence particular to penalty, consideration was provided to the Applicant's submissions, degree of carelessness, severity of interference, not-guilty plea and disciplinary history. The reviewer, in considering the totality of the incident and taking into account the aforementioned factors, finds it can be reasonably argued that the incident falls into the high range category, particularly when assessing the Applicants degree of carelessness and that of the interference suffered to SECRET AGENT MAN which was in contention to fight out the finish of the race. Accordingly, the reviewer finds the penalty to be extremely considerate in the circumstances, particularly when taking into account the Applicants unsatisfactory disciplinary history and therefore confirms the original decision on charge and penalty.

#### **PART 5: Review Rights following Internal Review Decision**

In accordance with section 246 of the *Racing Integrity Act 2016*, as the applicant for an internal review of the original decision, you are able to apply to the Queensland Civil and Administrative Tribunal (QCAT) for an external review of the internal review decision.

An external review is commenced by lodging the appropriate forms with QCAT. In accordance with section 33 of the *Queensland Civil and Administrative Tribunal Act 2009*, an application for an external review of an internal review decision is to be made within 28 days from the day this internal review decision notice is provided to the applicant.

For further information regarding the processes for an external review of the decision, please contact QCAT:

#### **Queensland Civil and Administrative Tribunal**

Registry Location: Level 9, 259 Queen Street, BRISBANE QLD 4001  
Postal Address: GPO Box 1639, BRISBANE QLD 4001  
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